

J-4
8-23

SECTION 13. DISCIPLINARY MATTERS

13-1

INTRODUCTION

(1) As the Government's primary investigative service with a wide range of jurisdictional responsibilities for which we are accountable to the public, it is imperative that a policy of tight discipline be applied in the FBI. It is the responsibility of Bureau supervisory personnel to make clear to employees under their supervision that the Bureau's disciplinary program is firm but fair.

(2) It is imperative that any information pertaining to allegations of misconduct or improper performance of duty coming to the attention of any Bureau employee be promptly and fully reported to FBIHQ, and it is the continuing responsibility of Bureau officials to see to it that the employees under their supervision are properly indoctrinated regarding this requirement so that they not only will fully understand it but will comply with it.

[(3) The appropriate Assistant Director, SAC or Legal Attache is authorized to temporarily assign personnel to other duties during an administrative inquiry if the circumstances surrounding the allegation indicate that such action is warranted. Such a reassignment should not be made automatically. Rather, each case must be judged on the individual factors involved, including the credibility of the allegation and the sensitivity of the employee's current assignment. Temporary reassignments may be justified in order to enhance the security and/or protect the integrity of FBI investigations and files; to preserve order; for the safety of persons and property; or for other appropriate reasons. Any such action must be coordinated with the Office of Professional Responsibility, Inspection Division; Administrative Services Division; and the appropriate substantive FBIHQ Division and be fully supported by the facts. If an employee is temporarily reassigned during an administrative inquiry, Assistant Directors, SACs and Legal Attaches must continually monitor developments in the administrative inquiry in order to assess the employee's position. If, for example, facts are later developed which alter the basis for the employee's original reassignment, then he/she may be returned to previous duties, even prior to a final adjudication of the matter. Allegations regarding unauthorized access or attempted unauthorized access to national security information should continue to be promptly reported to the Security Programs Manager, FBIHQ (see MIOG, Part II, 26-4).]

[(4)] See Part I, Section 1, of this manual regarding Activities and Standards of Conduct of employees. See Part I, Section 9, of this manual regarding annual leave for employees involved in disciplinary action.

13-2

NOTIFICATION OF FBIHQ UPON RECEIPT OF ALLEGATIONS OF MISCONDUCT OR IMPROPER PERFORMANCE OF DUTY

(1) All allegations of employee misconduct must be reported to the Administrative Summary Unit (ASU), Administrative Services Division (ASD). Allegations of criminality or serious misconduct must be reported simultaneously to the FBI Office of Professional Responsibility (OPR), Inspection Division. OPR supervises and/or investigates all allegations of criminality or serious misconduct on the part of FBI employees. Judicial criticism of an Agent's conduct in findings of fact, opinions, or court orders, whether oral or written, is to be considered an allegation of serious misconduct and reported to OPR as set forth below.

PART I

SECTION 13. DISCIPLINARY MATTERS

(2) When an allegation is received concerning criminality or serious misconduct, the appropriate Assistant Director, SAC or Legal Attache will advise OPR of the allegation by telephone or teletype. OPR will in turn, advise ASU, ASD. A confirming airtel, with a copy designated for the ASU, ASD, should be directed, in a sealed envelope, to FBIHQ, Attention: OPR, Inspection Division. OPR will then determine and advise who will conduct the investigation. In most instances, the Assistant Directors, SACs, or Legal Attaches will personally supervise and promptly investigate the vast majority of these matters. OPR normally investigates only those allegations involving FBIHQ officials, SACs, ASACs, and Legal Attaches and sometimes Headquarters and field supervisors or when circumstances dictate.

(3) If an allegation of misconduct within the responsibility of OPR arises out of a substantive case (pending or closed), the responsible FBIHQ Division will, more than likely, continue to supervise that investigation including the new allegation. However, FBIHQ Divisions will immediately inform OPR, Inspection Division, of the alleged improprieties and forward that portion of the investigation to OPR, Inspection Division, for further processing. When possible, these allegations should be carried under a personnel matter caption and handled as a separate "62" administrative matter so that the substantive investigation and/or prosecution is not hindered.

(4) Other infractions, such as lost badges or minor personal misconduct will continue to be handled by Administrative Services Division. These matters are well defined and should continue to be handled as in the past. Any question as to whether a matter is or is not within the responsibility of OPR must be referred to OPR for a determination in this regard.

13-3

INVESTIGATION

(1) When investigation necessary to develop complete essential facts regarding any allegation against Bureau employees must be instituted promptly, and every logical lead which will establish the true facts should be completely run out unless such action might prejudice pending investigations or prosecutions in which event FBIHQ will weigh the facts, along with the recommendation of the division head.

(2) The record of the inquiry shall include the initial allegation; the investigative results; aggravating or mitigating circumstances; statement of specific charge(s); and the employee's answer(s) including defenses to the specific charge(s), if any.

13-4

INTERVIEWS OF EMPLOYEES INVOLVED

(1) Interviews of employees involved in allegations of criminality or serious misconduct should be conducted at the earliest logical time and in a forthright manner. There should be no evasiveness on the part of the Bureau official conducting the interview.

(2) The employee should be fully and specifically advised of the allegations which have been made against him/her in order that he/she may have an opportunity to fully answer and respond to them. The employee must be entirely frank and cooperative in answering inquiries of an administrative nature. If allegations are possibly criminal in nature, the employee has the right to seek counsel in the same vein as any other individual (see 13-6).

SECTION 13. DISCIPLINARY MATTERS

(3) Such interviews must be complete and thorough with all pertinent information obtained and recorded so that all phases of the allegations may be resolved. The interviews must not be unduly protracted and should be held to a reasonable length by proper preparation and recognition of the purpose of the interviews.

(4) The inquiry shall not be complete until the specific allegations that may justify disciplinary action are made known to the employee who may be disciplined and the employee is afforded reasonable time to answer the specific allegations. The employee's answers, explanations, defenses, etc., should be recorded in the form of a signed, sworn statement which should specifically include the allegations made against the employee in an introductory paragraph. The statement is to be prepared following an in-depth interview of the employee by the division head or designated supervisory representative. The employee is not merely to be asked to give a written response to the allegations, but is to be interviewed in an interrogatory fashion, and a signed, sworn statement prepared from the results by the interviewing official. Since the statement represents that which the employee is willing to sign and swear to, he/she retains the right to make corrections or changes before doing so. If those changes or corrections differ materially from what the employee stated during interview, that fact and the nature of the statements should be separately recorded. Should there be any question on the part of the interviewing official as to whether a particular allegation (set of facts) might justify disciplinary action, he/she should contact OPR, Inspection Division, in order to resolve this prior to the interview so the employee will be ensured of an opportunity to appropriately respond.

(5) When interviewing employees during administrative inquiries to solicit information about themselves or about their own activities, the employee should be provided the Privacy Act notice described in MIOG, Part I, 190-5(2), explaining the purpose of the inquiry and how the information will be used.

(6) When interviewing employees, or others, to solicit information about the subject of an administrative inquiry, the person interviewed as a source should be provided, if appropriate, the opportunity to request an express promise of confidentiality, as described in MIOG, Part I, 190-7, and SAC Memorandum 51-77(C), dated 11/15/77, in order to protect the source's identity should the subject of the inquiry submit a Privacy Act request for access to records of the inquiry. The source should be cautioned that if a formal adverse personnel action is taken against the subject of the inquiry pursuant to Chapter 75 of the Civil Service Reform Act, the information furnished, along with the source's identity must, by law, be provided to the subject, if any information provided in that statement is used in whole or in part to support that personnel action. In addition, pursuant to certain administrative inquiries and possible judicial proceedings, it may be necessary to furnish the source's identity if any information provided in the source's statement is used in whole or in part to support a personnel action. The principles discussed in 13-6, infra, are also applicable to an interview of an employee regarding the actions of others, to the extent such answers might reveal criminal misconduct on the part of the employee being interviewed.

13-4.1 Polygraph Examinations of Bureau Employees

(1) All polygraph examinations of FBI employees and those who have made allegations against FBI employees must be approved by the Assistant Director, Inspection Division, or another person designated by the Director.

154.01
7/19/84

MAOP

SECTION 13. DISCIPLINARY MATTERS

(2) Polygraph examinations of employees will be administered away from their own office of assignment. This procedure will help protect the confidentiality of the investigation/inquiry and lessen the outside pressure on the employee which could be associated with an examination conducted with knowledge of an employee's friends and associates.

(3) Polygraph examinations of Bureau employees are to be administered by an FBIHQ examiner. In the event an FBIHQ examiner is not available, the examination will be conducted by an examiner designated by FBIHQ.

[See MIOG, Part II, 13-22.13.1, [13-22.13.2, 13-22.13.3,] and 13-22.14 for additional instructions and information regarding polygraph examinations of employees who are subject of a criminal investigation or administrative inquiry.

13-5

SIGNED SWORN STATEMENTS

Whenever there are circumstances in connection with investigations or inquiries indicating misconduct of personnel, harassment or intimidation of subjects, other individuals or groups, or derelictions of any kind by the Bureau, all Agents engaged in such investigations or inquiries must:

(1) Immediately prepare signed sworn statements of fact so that a clear record will be available should a question arise at a later date. These statements should:

- (a) Cover facts bearing directly upon charges made.
- (b) Be specific as to each allegation, if allegations are specific.
- (c) Be general in nature; if allegations are general in nature.

In matters relating to a pending investigation, no interviews should be conducted until it is determined by the USA's office, the Department of Justice and/or FBI Headquarters, that such action will not hinder the investigation and/or prosecution. The SAC or any Special Agent designated by SAC may administer the oath in these statements since, under existing regulations, Agents are authorized to administer oaths in cases involving irregularities or misconduct in office of a Government employee. This statement is comparable to an affidavit, but does not necessitate notarization.

(2) Forward the original and one copy of these statements to FBIHQ under the appropriate case caption and retain a copy in the field office or Headquarters file. If the allegations relate to a matter currently being investigated, prosecuted or on appeal, the USA's office (or in aggravated instances, Office of Professional Responsibility-Department of Justice) should be made aware and an opinion sought as to whether or not immediate preparation of the employee's statement would have a detrimental effect on the substantive investigation. Thereafter, if appropriate, a signed copy of any statement obtained can also be furnished to the appropriate USA so that the court records will clearly show the true facts and any false allegations made will not stand undisputed in the court record.

(3) If the matter, whether criminal or administrative in nature, is considered sufficiently serious, an attempt should be made to obtain the complainant's allegation in the form of an affidavit or sworn signed statement also.

PART I

SECTION 13. DISCIPLINARY MATTERS

13-6 ADMINISTRATIVE OR CRIMINAL PROCEEDINGS - USE OF INTERVIEW FORMS

(1) Prior to the interview of an employee against whom allegations of criminal misconduct have been leveled a decision should be made as to whether the goal of the interview is to obtain a statement admissible in subsequent criminal proceedings or whether the goal is to compel the employee to make a full statement of the facts in order to ascertain what administrative action, if any, is appropriate. This decision is to be made by OPR, FBIHQ.

(2) To ensure that employees being interviewed are fully and consistently made aware of their rights and obligations, two forms have been adopted for use in such interviews. The Office of Professional Responsibility, DOJ, has fully endorsed the use of these forms. These forms are only to be utilized during official administrative inquiries and only when authorized by FBIHQ (primarily those supervised by OPR).

[(3) Neither of these two forms (FD-644 nor FD-645) which are described below are to be routinely used during the investigation of a shooting incident. They will be used only in those shooting inquiries when instructed to do so by FBIHQ as set forth in MIOG, Part II, Section 12-1.9.]

The decision as to which form will be used in a particular inquiry will be made by OPR, FBIHQ, on a case-by-case basis, in accordance with the principles set forth below.

13-6.1 Criminal Proceeding Contemplated or Possible

(1) Form A (FD-644) captioned "Warning and Assurance to Employee Requested to Provide Information on a Voluntary Basis," is to be utilized in situations where an employee is provided an opportunity to voluntarily respond to questions concerning allegations of job-related misconduct which have the potential for criminal prosecution, but wherein the employee is not being compelled to answer questions or provide a statement. Use of this form should assure that any statements obtained will be freely and voluntarily given and, hence, admissible in any future criminal proceeding.

(2) Full Miranda warnings will be given to employees only in situations where the employee to be interviewed is in custody or is significantly deprived of his/her freedom of action, an arrest is clearly intended at the conclusion of the interview, or whether in custody or not, the employee being interviewed has previously been arrested or formally charged and prosecution is pending on a Federal offense and the questioning concerns that offense or a related Federal offense.

(3) Whenever Form FD-644 is utilized, an interview log should be prepared in accordance with the Legal Handbook for Special Agents, Section 7-9.

13-6.2 Inquiry Solely for Administrative Purposes

(1) In a situation where the allegation, if true, has the potential for criminal prosecution, but a decision has been made not to seek an admissible statement, (but rather, to compel the employee to fully and candidly answer all questions concerning the alleged incident), Form B (FD-645), captioned "Warning and Assurance to Employee Required to Provide Information," should be used.

PART I

SECTION 13. DISCIPLINARY MATTERS

However, prior to the use of this form in any instance where the allegation, if true, would have potential for Federal criminal prosecution of the employee to be interviewed, OPR-Inspection Division must present the facts of the case to OPR-DOJ and obtain an initial opinion that the matter in question should be handled administratively rather than criminally. This is necessary because any incriminating statement obtained after use of Form FD-645 will not be admissible in a criminal prosecution of the employee.

(2) In a situation where the allegation, if true, has potential for non-Federal prosecution, and a decision has been made by FBIHQ to compel full answers from the employee regarding the matter under investigation, Form FD-645 should be used.

(3) In all other instances where an employee is being interviewed in connection with an official administrative inquiry, Form FD-645 should be used.

(4) There is no Sixth Amendment right to counsel in purely administrative interviews. Therefore, even if the employee specifically requests to have an attorney present during the course of the interview, the Bureau is not legally obliged to agree to this condition. Any administrative decision to allow the presence of counsel during an administrative interview is to be made by OPR, FBIHQ.

[(5) An interview log is not required when Form FD-645 is utilized. Those conducting such administrative interviews of employees should be alert, however, to circumstances where good judgment might warrant preparation of an interview log; for example, in those interviews of a particularly sensitive nature or in those concerning serious misconduct involving veterans which may ultimately be heard before a Merit Systems Protection Board.]

13-7 REPORTING

(1) In most instances, after FBIHQ has been initially notified of the allegation, it will be satisfactory for the responsible official to report the facts pertaining to the misconduct or improper performance of duty, by letter setting forth a concise statement of the situation together with supporting documentation and statements. In all cases, whether or not it is felt administrative action is necessary, a statement that administrative action is, or is not, recommended must be made. There can be no deviation from this procedure.

(2) To prevent unauthorized disclosure of these allegations and the subsequent inquiry, a separate field office file, when possible, should be opened and indexed under a "62" classification (Administrative Inquiry) for each investigation and be maintained in the SAC's safe. This file number will be included on all communications between field divisions and FBIHQ; communication being directed to the personal attention of the SAC and/or enclosed in a sealed envelope to FBIHQ, Attention: OPR-Inspection Division.

(3) Copies of the allegations and subsequent investigation should not be placed in the accused's field office or FBIHQ personnel file. Only if some form of administrative action is taken will there be any need to address the allegation in one's personnel file. This is satisfactorily handled by a designated copy of the approved justification memorandum and/or addendum(s) being placed in the personnel file at FBIHQ as well as copies of the outgoing communication to the employee being placed in both the field office and FBIHQ personnel files.

PART I

SECTION 13. DISCIPLINARY MATTERS

13-7.1 Format

Certain factual situations may require the letters in which they are reported to exceed one page in length. In these instances, such letters should conform to the following format:

(1) Title--This should, when possible, relate only to the substance of the allegation regardless whether or not it originated out of a substantive investigation or is work related. The title should include the employee(s) name; general allegation (i.e., alleged professional misconduct, etc.); complainant, if appropriate; division and Personnel Matter.

(2) Synopsis--Here should be stated briefly, but clearly, the pertinent facts relating to the situation. While brief, the synopsis should contain sufficient facts to give any reviewing official a clear picture of each allegation and whether they are true or false.

(3) Action taken--Here should be clearly enumerated the action taken by the Bureau official pertaining to the employee in connection with the misconduct or improper performance of duty. For example, a statement as to the time and date an employee was suspended from active duty, or an explanation as to any investigation or information sought from other field offices in running out the allegation, or the like, should be set forth under this heading.

(4) Work record and any aggravating or mitigating factors--Under this heading should be reported pertinent comments regarding the general work performance record of the employee. In addition, any other factors of an aggravating nature or which might have a mitigating or balancing effect upon the dereliction should be set forth. For example, if an employee put a great deal of hard work and effort into a matter and was also responsible for certain shortcomings, the administrative action finally decided upon would be dependent upon a balancing and weighing of the good and bad aspects. However, any mitigating facts should not be restricted to the particular case or incident from which the dereliction arises. An employee may have performed creditably in other cases recently, on other occasions or displayed a commendable attitude which factors should be brought to FBIHQ's attention.

(5) Comments and conclusions--Under this heading should be set forth the observations of the Bureau official and the conclusions upon which the recommendations for administrative action are based.

(6) Recommendations--Under this heading should be set forth the recommendations as to what, if any, administrative action is necessary.

(7) Enclosures--Attach statements of the complainant, witnesses and employee(s), as well as any documentation relevant to the inquiry.

13-7.2 Investigative Reports

(1) Matters involving criminality or serious misconduct supervised/investigated by OPR-Inspection Division should, for the most part, be submitted to FBIHQ by Investigative Report which should be thorough, precise and to the point. There may be instances where the extent of the inquiry is so minimal that an Investigative Report would not seem necessary. Any question concerning whether or not to submit an Investigative Report should be resolved by consulting with OPR-Inspection Division.

PART I

SECTION 13. DISCIPLINARY MATTERS

(2) Synopses of Personnel Matter Investigative Reports should be extremely complete to include all allegations, the results of investigation and the subject employee's responses to these allegations. Consideration should be given to including a table of contents in these Investigative Reports.

(3) Three copies of the Investigative Report (four copies if the matter involves a substantive case) should be submitted by cover airtel, in a sealed envelope, to FBIHQ, Attention: OPR-Inspection Division. The cover airtel should contain the SAC's observations, comments, mitigating or aggravating circumstances, as well as [SAC's] recommendations for administrative action.

(4) FBIHQ is to be the office of origin in Personnel Matter investigations.

PART I

SECTION 13. DISCIPLINARY MATTERS

13-8 ALLEGATIONS MADE BY INDIVIDUALS OUTSIDE THE BUREAU

(1) In instances in which allegations are made by persons outside the Bureau against Bureau personnel or the Bureau itself and such charges are disproven, prompt action should be taken to refute such claims both with the source of the erroneous complaints and others having knowledge of the allegations, including news media carrying stories on the matter. Where possible, every effort should be made to have the refutation appear in the same article with the charges. Whenever the advisability of taking this action appears questionable, FBIHQ should be advised and a recommendation made on this point setting out clearly the reasons on which the conclusion is based.

(2) If allegations are made against Bureau personnel by subjects of Bureau cases during a court trial, it is the responsibility of the SAC with the concurrence of the USA and/or DOJ, to see that proper refutation is made and that such refutation appears in court records in accordance with the Manual of Investigative Operations and Guidelines, Part II, Section 6. The purpose of this is to insure that in case of an appeal the Bureau's refutation is in the court's record. FBIHQ is to be advised promptly of all pertinent facts and circumstances relating to such allegations and refutations.

13-9 SUSPENSION WITHOUT PAY

(1) No Bureau employees are to be suspended without pay without prior FBIHQ approval. Where the seriousness of the situation warrants, the Assistant Director of the Administrative Services Division may be contacted telephonically. His instructions regarding suspension without pay or other immediate action to be taken pending a final determination of the matter may be secured.

(2) In cases involving disciplinary suspension without pay for seven or more consecutive calendar days, SF-8 will be sent to the employee by Personnel Section, FBIHQ, as an enclosure with the letter addressed to employee containing suspension notification. However, when telephonic or teletype instructions are issued by FBIHQ suspending the employee for seven or more consecutive calendar days, instructions will be issued

SECTION 13. DISCIPLINARY MATTERS

and recorded that SF-8 be furnished. When SACs and division heads receive these instructions, a dated notation that form was sent should be made in the remarks column on the time and attendance card.

(3) Employees who are under suspension without pay cannot legally be permitted to work during the period of suspension. If employees offer to work while under suspension, they should be informed it is illegal. FBIHQ decision in such instances is unnecessary, although FBIHQ should be informed of the employee's attitude in making the offer.

13-10

VETERANS' PREFERENCE ACT

(1) When an employee is a veteran and has completed the one-year probationary period in the Bureau, the employee is entitled under the Veterans' Preference Act to receive 30 days' advance written notice of proposed involuntary separation, involuntary reduction in grade or pay, or suspension without pay exceeding 14 days. The notice must state the reasons and the veteran must be given an opportunity to answer. During the period of advance written notice, the employee may be retained on active duty, be placed on annual leave or leave without pay with employee's consent, or be suspended without pay (such suspension cannot exceed [14] days in length). In any case in which there is reasonable cause to believe the employee guilty of a crime punishable by imprisonment, the advance written notice may be reduced to whatever length of time is reasonable but not less than seven days.

(2) If on active duty status, the employee must be given a reasonable amount of time to prepare an answer. The material on which the Bureau relies in proposing the adverse action must be made available to the veteran for review in connection with preparation of an answer.

(3) Upon receiving the employee's answer to the notice of proposed disciplinary action, FBIHQ will consider it and advise the employee in writing of its final decision. If this decision is adverse to employee, the employee has a right to appeal it to the appropriate regional office of the Merit Systems Protection Board. This right lasts for 15 calendar days after the effective date of the disciplinary action.

(4) Any necessary notices to employees required by the Veterans' Preference Act will be handled by FBIHQ.

13-11

RESIGNATION TENDERED DURING PERSONNEL ACTION INQUIRY

(1) It may be that an employee would rather submit his/her resignation than see the inquiry continue and face possible charges. Division heads, SACs and other supervisory employees may, upon conclusion of their findings, discuss with the employee what the intended recommendation to FBIHQ will be with respect to administrative action, being careful to point out at the same time that any formal action or charges will be made at FBIHQ. Accordingly, it is permissible to discuss the possibility of resignation with the employee. Duress, deception, intimidation or anything similar will not be tolerated and must not be used to influence employee's decision nor may employee be denied adequate time, if requested, to make a decision between resigning or seeing the inquiry continued. Employee should be advised of the Bureau's procedures for employee discipline and that these procedures allow an employee the opportunity to rebut negative allegations and recommendations of his/her supervisors. Employee should also be advised that a voluntary resignation might preclude him/her from receiving unemployment compensation he/she may otherwise be entitled to.

PART I

SECTION 13. DISCIPLINARY MATTERS

(2) Should an employee involved in allegations submit his or her resignation from the Bureau's service, such resignation should be received and forwarded to FBIHQ.

13-12

SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES

(1) This schedule is to be used only as a guide in determining appropriate discipline based on the violation of regulations by Bureau employees. This schedule is not all inclusive, and final determination of the appropriate disciplinary action warranted in each case will be made by FBIHQ. It should be noted that the decision-making process utilized in determining appropriate action in disciplinary matters is extensive in nature and involves input from every level of management in FBIHQ. In addition, consideration is given to Bureau policy and similar incidents previously resolved, as well as any aggravating or mitigating circumstances of the case in point. In some instances, discussions are held with the Department of Justice and the Office of Personnel Management before a final determination is made. In most instances, penalties for violations of regulations will fall within the range of penalties set forth in this schedule. In aggravated case, a penalty outside the range of penalties may be imposed. For example, supervisors and Bureau officials, because of their responsibility to demonstrate exemplary behavior, may be subject to a greater penalty than is provided in the range of penalties. The purpose of this schedule is not to remove the personnel management decisions made in all disciplinary matters but rather to provide an example and guide which is used at FBIHQ in connection with decisions made in regard to disciplinary matters.

(2) In regard to suspensions, it is noted that the Civil Service Reform Act (CSRA) of 1978 provides that days of suspension will be computed in terms of calendar days, not days worked. Therefore, recommendations for a period of suspension will only be made in terms of calendar days. A period of suspension will always commence at the close of business, Friday of any given week. For example, recommendation of seven (7) days' suspension, if approved, will result in a forfeiture of five days' pay whereas a recommendation of fourteen (14) days' suspension will result in a forfeiture of ten days' pay. A period of suspension in excess of 14 calendar days is an adverse action as defined in the CSRA of 1978 (see 13-10 of this section for details).

(3) For the purpose of definition, an "adverse action" is where an employee is reduced in grade or pay, suspended for more than 14 days or dismissed. All employees may appeal disciplinary action to the Director of the FBI [to be received at FBIHQ within 30 calendar days after the effective date of the disciplinary action.] Thereafter, nonveteran employees in the FBI, an excepted service, do not have a right of appeal of a disciplinary action to the Merit Systems Protection Board. However, they may file an action in court. In conformance with the provisions of the Veterans' Preference Act of 1944, a veteran, following final action on an appeal to the Director of the FBI, may appeal an adverse action to the Merit Systems Protection Board and, thereafter, may file an action in court.

(4) The following definitions are furnished for information. This schedule does not include discipline required by law or infractions which, in addition to being a violation of Bureau rules and regulations, are also a criminal offense.

(a) Oral reprimand--Employees are advised of deficiency or infraction of regulations and notation made in personnel file relating to the need for the official reprimand.

PART I

SECTION 13. DISCIPLINARY MATTERS

(b) Commented upon in annual performance rating--In this instance, the infraction warranted more than an oral reprimand but is not considered severe enough for official recognition in the form of a letter of censure. This refers to work-related matters only.

(c) Censure--Official written reprimand.

(d) Censure and probation--Official written reprimand which includes a minimum probationary period of 90 days for Special Agents and 60 days for other employees.

(e) Censure, probation and suspension--Official written reprimand which, in addition to a probationary period, includes a period of time in which the employee is removed from duty without pay.

(f) Demotion--Any reduction in grade or pay.

(g) Removal--Dropped from the rolls of the FBI.

(5) The standards by which all employees are held are set forth in greater detail in this manual. For further reference, these standards of conduct can be found in the Department of Justice Order 350-65 captioned "Standards of Conduct."

(6) An employee may be censured when the cause for administrative action is sufficiently aggravated as to require a written reprimand. At the time FBIHQ makes a promotional decision, all relevant information including [the cause for a disciplinary matter, including probation,] is considered. FBIHQ expects the employee's superior to provide a strong favorable recommendation when the employee has been the subject of disciplinary action [within the preceding 12 months. Lacking such a recommendation, [FBIHQ] may determine that a promotion from one GS or Wage level to another should be delayed for a period of up to 60 days for support employees or up to 90 days for Agents.

SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES

SECTION 13. DISCIPLINARY MATTERS

PART I

NATURE OF OFFENSE	REMARKS	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
1. Unexcused or unauthorized absence of 8 hours or less	All Personnel	Oral reprimand to 3-day suspension	Oral reprimand to 5-day suspension	Oral reprimand to removal
2. Excessive unauthorized absence (in excess of 8 hours)	All Personnel	Oral reprimand to 5-day suspension	Oral reprimand to 15-day suspension	Oral reprimand to removal
3. Work deficiencies and/or inattention to duty	Agent Personnel	Oral reprimand to removal	5-day suspension to removal	15-day suspension to removal
	*Non-Agent Personnel	Oral reprimand to removal	3-day suspension to removal	5-day suspension to removal
4. Insubordination	All Personnel	Censure to removal	5-day suspension to removal	15-day suspension to removal
5. Unauthorized possession of, use of, loss of or damage to Government property other than motor vehicle or aircraft	**All Personnel	Oral reprimand to removal	3-day suspension to removal	5-day suspension to removal
6. ***Unauthorized possession of, use of, loss of or damage to Government-owned or leased motor vehicle or aircraft	All Personnel	Oral reprimand to removal	3-day suspension to removal	5-day suspension to removal

*Excluding Fingerprint Examiners, Technical Section, Identification Division, for whom standards of production and accuracy, as well as minimum penalties, have been established.

**Non-Agent Personnel - First loss of Bureau Identification - No administrative action.

***Title 31, U.S. Code, Section[1349(b)], provides a minimum of 30 days' suspension for employee who willfully uses or authorizes the use of any Government-owned or leased motor vehicle or aircraft for other than official purposes.

5/31/83

MAOP

Declassified and Approved For Release 2014/04/10 : CIA-RDP90-00530R000701780014-9

SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES

NATURE OF OFFENSE	REMARKS	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
7. Traffic violations a. Aggravated (all types)	All Personnel	Oral reprimand to removal	Oral reprimand to removal	Oral reprimand to removal
b. Driving While Intoxicated		Oral reprimand to removal	5-day suspension	15-day suspension
8. Illegal use of Controlled Substance (Drugs and marijuana)	All Personnel	Removal		
9. Criminal, dishonest, immoral, infamous or notoriously disgraceful conduct	All Personnel	Oral reprimand to removal	5-day suspension to removal	30-day suspension to removal
10. Failure to honor con- firmed financial obligations	All Personnel	Oral reprimand	Oral reprimand	Oral reprimand to removal
11. Unauthorized disclosure of information from Bureau records	All Personnel	Oral reprimand to removal	Removal	
12. Falsification of official documents and/or records	All Personnel	Oral reprimand to removal	Removal	

SECTION 13. DISCIPLINARY MATTERS

PART I

162
5/31/83

MAOP

SCHEDULE OF DISCIPLINARY OFFENSES AND PENALTIES FOR FBI EMPLOYEES

NATURE OF OFFENSE	REMARKS	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
13. Availability	All personnel	Oral reprimand to removal	Oral reprimand to removal	Oral reprimand to removal
14. Fitness for duty (overweight)	Agent Personnel	Oral reprimand	Oral reprimand to 5-day suspension	Oral reprimand to 15-day suspension
[[15. Smoking regulations	All personnel	Oral reprimand to censure	Oral reprimand to 5-day suspension	Oral reprimand to 14-day suspension]

SECTION 13. DISCIPLINARY MATTERS

PART I

163
6/27/87

MAOP

PART I

SECTION 13. DISCIPLINARY MATTERS

13-13 DISCIPLINARY PROBATION

Disciplinary probation is a corrective and/or punitive procedure (which may be imposed with censure and/or suspension when so dictated by the factual situation) to closely monitor an employee's performance with intent to provide counsel and correction during a specified period of time. During the disciplinary probation period, a denial of certain employee benefits may be imposed.

13-13.1 Purpose of Disciplinary Probation

To provide the employee with notice that the particular area of inefficiency, delinquency, or poor judgment, etc., will be afforded close scrutiny for a specified period of time. During the period of disciplinary probation, the employee is expected to make a concerted effort to improve in the deficient area.

13-13.2 Length of Disciplinary Probation

The length of the disciplinary probation period is flexible and [will be determined by the Director or [Director's] delegated representative. In most cases the original disciplinary probation period will be 90 days for Special Agents and 60 days for support employees. Removal from probation must be approved by the official who placed the employee on probation or by a higher Bureau authority.

13-13.3 Effects of Disciplinary Probation on Employee

During the period of disciplinary probation an employee:

- (1) Will not be promoted from one GS or Wage Board level to another;
- (2) Will not be considered for advancement within the Career Development Programs of the Bureau;
- (3) Will not be considered for an Office of Preference Transfer;
- (4) May have a promotion delayed for a period of time not to exceed the period of disciplinary probation if the action occurred during the preceding 12 months and has not been offset by a strong favorable recommendation for promotion from the employee's superior. The final determination will be made by the Personnel Officer at FBIHQ.

13-13.4 Application of Disciplinary Probation

An employee will be placed on disciplinary probation only when the cause for administrative action is work performance related or work-related.

- (1) Work performance considers the technical competence aspect of an employee.
- (2) Work-related action involves judgment, common sense, and the impact the cause has on the public's perception of the FBI.